

Patent
Attorney's Docket No. 000500-285

#10
CD
6/6/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)

Dan HAUZENBERGER)

Application No.: 09/763,292)

Filed: February 21, 2001)

For: A METHOD FOR MEASURING A)
PATIENT'S ABILITY TO)
METABOLIZE CERTAIN DRUGS)
(as amended))

Group Art Unit: 1645

Examiner: Arun Chakrabarti

RECEIVED

MAY 30 2002

TECH CENTER 1600/2900

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In complete response to the Requirement for Restriction issued by the Patent and Trademark Office on April 25, 2002, applicants hereby elect with traverse the invention of Group I, claims 1-3 for prosecution in this application. Group I is directed to a method of nucleic acid hybridization.

The traversal is based upon the fact that the instant application was filed under §371. Applicants are thus entitled to a "unity of invention standard" for determining restriction. It is respectfully submitted that "unity of invention" exists in the instant case. Group I relates to a nucleic acid hybridization. Group II is directed to nucleic acid primers, and Group III relates to a kit containing nucleic acid primers and DNA polymerizing agents. These claims are thus all united by the fact that they are directed to methods and DNA sequences (detection primers) from isoforms of cytochrome P450. As noted in MPEP §1850, unity of invention will exist for independent claims of a product and a use of the product. Unity of invention should thus exist, at the very least, for Groups I

and II. In addition, unity of invention should exist for the kits containing the nucleic acid primers of Group II. Unity of invention thus exists.

Moreover, according to the MPEP § 803, a restriction between patentably distinct inventions is proper only where there is a serious burden on the Examiner to examine all the claims in a single application. This is true even when appropriate reasons exist for a restriction requirement.

In the present application, it is believed that because there is a close relationship between the subject matter of the three sets of claims, there would be no serious burden on the Examiner to examine all the claims at this time.

In view of the above, it is respectfully requested that the restriction requirement be withdrawn or at the very least altered.

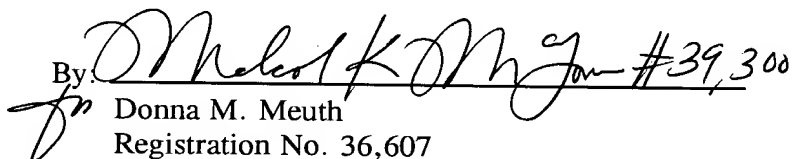
In the event that there are any questions relating to this amendment or the application in general, it would be appreciated if the Examiner would contact the undersigned attorney at (508) 339-3684.

Early and favorable action in the form of a notice of allowance is respectfully requested.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620
Date: May 28, 2002

By:  #39,300
Donna M. Meuth
Registration No. 36,607